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| 10/511,081 | 10/12/2004 | Roger Hanif Armour | | 9597 |

7590 10/17/2007
Fildes & Outland
Suite 2
20916 Mack Avenue
Grosse Pointe Woods, MI 48236

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| EXAMINER |
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TRA, TUYEN Q

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10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/511,081 | Applicant(s) ARMOUR, ROGER HANIF | |
| | Examiner Tuyen Q. Tra | Art Unit 2873 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The indicated allowability of claim 14 is withdrawn in view of the newly discovered from previous reference. Rejection is as follow.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7, 9 and 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over as being anticipated by Applicant Admit Prior Art (AAPA).

a) With respect to claim 1, AAPA discloses means defining a first light path (Figure 3, item a); reflective means (figure 3, item 3) arranged to divert light from the first light path (item a) along a second light path (figure 3, item b) extending through a first window and into a subject eye (figure 3, item 10); a second window through which an user can view a subject eye along a path (figure 3, item c) extending generally parallel to the second light path (item b); and a baffle (figure 3, item 6) substantially reduces ("substantially reduce" does not mean 100% prevent or block light exiting second window. Therefore, the light from light path still exits through the second window 5" as stated in of applicant's specification, para. [0033]), any light from the first light path (a) from exiting the ophthalmoscope through the second window (para. 0029-0034).

Although AAPA does not implicitly disclose wherein the baffle (figure 3, item 6) arranged between the first light path (item a) and a second window. Since the baffle arranged either outside or inside the window (5) has the same function to reduce light to an eye examiner.

The selection of the baffle inside the second windows is seems as design experience upon environment of use to ensure optimum performance. Therefore, it would be have been obvious at the time the invention was made to a person having skill in the art to position the baffle (6) inside the window (5) for purpose of limiting or reducing light passing to the eye examiner.

- b) With respect to claim 2, AAPA further discloses wherein the first light path (a) defining means comprises a tube (figure 3, item 2).
- c) With respect to claims 3 and 4, AAPA further discloses wherein outer surface tube is opaque and inside surface tube is non-reflective.
- d) With respect to claim 5, AAPA further discloses wherein reflective means comprises a mirror (item 3).
- e) With respect to claim 7, AAPA further discloses wherein said reflective means is inclined at approximately 45° to the first light path (item a).
- f) With respect to claims 9 and 10, AAPA further discloses wherein the first window is an aperture and wherein the second window is an aperture (figure 3, item 6).

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admit Prior Art (AAPA), as applied to claim 5 above, in view of Epitropoulos (US Patent 6,783,239 B2).

AAPA discloses means defining a first light path (Figure 3, item a); reflective means (figure 3, item 3) arranged to divert light from the first light path (item a) along a second light path (figure 3, item b) extending through a first window and into a subject eye (figure 3, item 10); a second window through which an user can view a subject eye along a path (figure 3, item c) extending generally parallel to the second light path (item b); and a baffle (figure 3, item 6)

arranged between the first light path (item a) and second window to reduce, any light exiting the ophthalmoscope through the second window (Paragraph 0029-0034). However, AAPA does not disclose wherein the mirror is semicircular. Within the same field of endeavor, Epitropoulos discloses tester device with teaching of a reflector having semicircular shape (column 3, lines 29-30).

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to construct the ophthalmic device with the reflective means such as disclosed by AAPA, and with a semicircular reflective shape such as discloses by Lo, for purpose of reflecting.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admit Prior Art (AAPA), as applied to claim 1 above, in view of Lo (US Pub. 2004/0012759 A1).

AAPA discloses means defining a first light path (Figure 3, item a); reflective means (figure 3, item 3) arranged to divert light from the first light path (item a) along a second light path (figure 3, item b) extending through a first window and into a subject eye (figure 3, item 10); a second window through which an user can view a subject eye along a path (figure 3, item c) extending generally parallel to the second light path (item b); and a baffle (figure 3, item 6) arranged between the first light path (item a) and second window to reduce, any light exiting the ophthalmoscope through the second window (Paragraph 0029-0034). However, AAPA does not disclose wherein the reflective means is a prism. Within the same field of endeavor, Lo discloses ophthalmic device with teaching of a reflective means is a prismatic shaped reflector (figure 12, item 16).

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to construct the ophthalmic device with the reflective means such as disclosed by AAPA, and with a prism reflective means such as discloses by Lo, for purpose of reflecting.

Response to Arguments

5. Applicant's arguments with respect to claims 1-5, 7, 9 and 10 have been considered but are moot in view of the new ground of rejection.

Applicant argues that the baffle, in figure 3, is arranged on outside of the second window. The argument is considered, but is moot in view of the new 103 U.S.C. rejection.

Applicant argues (in Remark, page 6, lines 5-9) fact, it can be seen that in the present invention, the reflective means has no aperture to allow light from the first light path (a) to exit through the second window, and the baffle is arranged on the inner side of the second window to substantially prevent light from the first light path (a) from exiting through the second window. Applicant should be noted that the Examiner rejection is based on claim, not based on specification, which read "a baffle arranged between the first light path (a) and second window to substantially reduce any light from the first light path (a) from exiting the ophthalmoscope through the second window." Therefore, the reference baffle (6) functions to reduce light passing to an examiner eye regardless it positioned outside or inside of the window (5).

Allowable Subject Matter

6. Claims 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2873

The reason for the indication of allowable subject matter is that (claim 11) wherein the reflective means is mounted on the baffle; (claim 12) wherein the baffle comprises a flange; (claim 13) wherein the baffle comprises a block disclosed in the claims is not found in the prior art.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuyen Q. Tra whose telephone number is 571-272-2343. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT

September 3, 2007


RICKY MACK
SUPERVISORY PATENT EXAMINER